

LDEQ LESHAP Guidance on Residential Demolitions

In addition to inquiries from municipalities noting that USEPA officials were inconsistent in their determinations of residential building exemptions, the House of Representatives Report accompanying H.R. 4624 (House Report 103–555, reported by the House Appropriations Committee), noted these inconsistent interpretations and directed EPA to issue a notice of clarification that a nuisance abatement demolition or renovation does not subject an otherwise exempt structure to the asbestos NESHAP regulations.

The USEPA issued the clarification notice in the Federal Register, Volume 60, No. 145, page 38725, dated Friday, July 28, 1995, in an effort to explain residential building exemptions. This notice states that, “in EPA’s opinion, the demolition or renovation of an isolated small residential building by any entity is not covered by the asbestos NESHAP. This notice does not affect EPA’s policy regarding demolition by fire.” In this notice, EPA noted their opinion, which states that, “While this notice clarifies EPA’s belief that certain demolitions or renovations performed by municipalities are not subject to the asbestos NESHAP, EPA encourages municipalities (and other owners and operators) to perform such demolitions or renovations in a manner that provides appropriate consideration for any potential adverse health impacts to the public.” EPA further states that, “Demolition of such homes typically occur after a municipality orders a building condemned for public health or safety reasons (e.g. condemnation of a building that is abandoned and/or in danger of collapse). This type of demolition does not include demolitions of buildings for the purpose of building public facilities like highways or sports arenas,”...and “a shopping mall or an amusement park”.

Based on EPA’s interpretive guidance, LDEQ has determined that the following applies to
*Residential Structures:

Residential Structures Regulated by NESHAP/LESHAP

1. Where an area (such as a city block) is made up of multiple parcels of land owned and operated by various parties, the EPA believes that the demolition or renovation of multiple (more than one) small residential buildings within that area by the same owner or operator or under control of the same entity is subject to NESHAP. The EPA further states that, in areas “not defined by city blocks” the site should be a “comparably compact site”. When the area cannot be easily defined as a city block, individual buildings less than 330 feet apart are considered to be within an area equivalent to a city block. **Example:** In the case of a natural disaster, when more than one residential structure or a single residential structure containing more than four dwelling units within a city block or an equivalent area is demolished by the same entity (such as federal, state or local government), the demolitions are subject to NESHAP, no matter who owns the various residences.
2. In EPA’s view, the area of a site may be larger where the area is owned and operated as a unitary area by a single owner/operator (eg. a shopping mall, amusement park, community center, right of way clearance for an interstate), and is subject to NESHAP. **Example:** The demolition of two or more single dwelling residences; or

more than one four plex by a single entity in one contiguous area for municipal, commercial, or industrial use, no matter the size of the area.

3. EPA believes that the residential building exemption does not apply where a single residential building is demolished or renovated as part of a larger project that includes demolition or renovation of non-residential buildings), and is subject to NESHAP. **Example:** The demolition of one single dwelling residence if in conjunction with non-residential buildings, such as a warehouse or office space located on the same property.
4. The EPA believes that the residential building exemption was not designed to exempt demolitions or renovations of multiple buildings at a single site by the same owner or operator from NESHAP, and these projects are therefore subject to the NESHAP standards. **Example:** The demolition of two or more single dwelling residential buildings; or more than one four plex at a single site owned by one owner regardless of type of entity: commercial, municipal, or homeowner.

Residential Structures Not Regulated by NESHAP/LESHAP

1. The owner of a home that renovates his house or demolishes it to construct another house is not to be subject to the NESHAP. **Example:** Joe Smith lives in one residential dwelling and wants to demolish the entire home for any purpose or a portion of the home to increase by value by adding curb appeal or additional space.
2. In EPA's opinion, the demolition or renovation of an isolated small residential building by any entity is not covered by the asbestos NESHAP. **Example:** A house located in rural Cameron Parish is damaged by a hurricane and is demolished by the Parish government.
3. EPA believes that demolition of two individual residences separated by several city blocks should not be considered a demolition on a single site, and is not subject to NESHAP. **Example:** A municipality demolishes a blighted residential building on the 1400 block of Canal Street and one on the 1600 block of Canal Street.

*A single dwelling residential structure may contain a detached garage and still be considered a single dwelling residential structure.

Note: LDEQ submits this policy as a guide to NESHAP/LESHAP, however all reasonable precautions shall be taken to prevent particulate matter from becoming airborne for any demolition being conducted. In addition, this guide in no way prevents liability from any party performing demolition activities.

To ensure that the subject guidance is followed, the LDEQ recommends that Regional officials of LDEQ be contacted to make a determination on whether demolition of small residences structures is subject to NESHAP/LESHAP.

LESHAP and Solid Waste Disposal

Whether the demolition activity is regulated by LESHAP or not, the transportation and proper disposal of the waste from that activity is regulated under the Louisiana Solid Waste Regulations (LAC 33:VII).

Regulated Asbestos Containing Material (RACM) must be disposed in a Type 1 or 2 solid waste permitted landfill that also has recognition in accordance with the Louisiana Air Quality regulations, in particular, LAC 33:III.5151.N. In addition, Category I and/or II asbestos containing material that becomes RACM during the demolition process, is subject to these same requirements.

Construction and demolition (C&D) debris that is not RACM may be disposed in a Construction and Demolition debris landfill that has a plan approved by the Solid Waste Section of the LDEQ Waste Permits Division to accept such waste.

LDEQ encourages the intact removal of transite siding and asbestos shingles prior to demolition to reduce hazards and allow for disposal at C & D debris sites.